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OFFICE OF PETITIONS

In re Application of
Reiter et al.
Application No. 09/854,811
Filed: 14 May, 2001
Attorney Docket No. 02307K-
141581

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DECISION ON PETITION

This is a decision on the petition filed on 17 January, 2007,¹
under 37 CFR 1.137(b),² to revive the above-identified
application.

The petition is **GRANTED**.

This application became abandoned on 8 October, 2006, for failure
to file a proper response to the final Office action mailed on 7
July, 2006, which set a three (3) month shortened statutory
period for reply. No extensions of the time for reply in
accordance with 37 CFR 1.136(a) were obtained. The filing of the
present petition precedes the mailing of Notice of Abandonment.

¹ A duplicate copy of the petition correcting the examiner's name and invention title was filed
on 26 January, 2007.

² Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay
in reply was unintentional, a petition may be filed to revive an abandoned application or a
lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37
CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application
abandoned for failure to prosecute, the required reply may be met by the filing of a continuing
application. In a nonprovisional utility or plant application filed on or after June 8, 1995,
and abandoned for failure to prosecute, the required reply may also be met by the filing of a
request for continuing examination in compliance with § 1.114. In an application or patent,
abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply
must be the payment of the issue fee or any outstanding balance thereof. In an application,
abandoned for failure to pay the publication fee, the required reply must include payment of the
publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for
the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.
The Commissioner may require additional information where there is a question whether the delay
was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to
37 CFR 1.137(c).

Petitioner has filed a Notice of Appeal as the required reply.

The Notice of Appeal filed 17 January, 2007, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

The application is being referred to Technology Center Art Unit 1642 to await receipt of applicant's Appeal Brief.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions